

Message Text

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PAGE 01 BRASIL 10445 221411Z
ACTION OPIC-06

INFO OCT-01 ARA-06 ISO-00 EB-07 COME-00 AID-05 TRSE-00 L-03
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P 221345Z DEC 76
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC PRIORITY 9254

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PASS OPIC

E.O. 11652: N/A
TAGS: EFIN, BR
SUBJECT: OPIC LOAN TO ACKER

REF: STATE 301995

1. FINATT TALKED WITH ACKER ATTORNEY ERIC STREET AND ACKER DO BRAZIL OFFICIAL HEITOR VIERA DE SOUZA ABOUT THE PENDING LOAN APPLICATION AND CEMPEX DIFFICULTIES IN APPROVING IT.

2. FINATT AND EMBOFF MET TODAY (DEC 21) WITH CEMPEX OFFICIAL (SANTA RITA) TO GO OVER THE MATTER. THE OFFICIAL CONFIRMED WHAT WE HAD BEEN TOLD BY MESSRS STREET AND VIERA: I.E., THAT CEMPEX CANNOT ACCEPT THE CURRENT LANGUAGE OF PARAS 9.1(B) AND 9.1(F) OF THE DRAFT AGREEMENT. (EMBASSY DOES NOT HAVE COPY OF AGREEMENT AND FINATT HAD TO RELY ON PORTUGUESE OF TEXT OF CENTRAL BANK. WOULD APPRECIATE ENGLISH TEXT OF AGREEMENT FOR FUTURE USE).

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3. WITH RESPECT TO PARA 9.1(B), CEMPEX WOULD LIKE TO HAVE A COMPLETE ENUMERATION OF EVENTS OF DEFAULT, INSTEAD OF JUST REFERRING BACK TO PARA 8. IN ADDITION, CEMPEX CANNOT ACCEPT ALL THE DEFINITIONS OF EVENTS OF DEFAULT IN PARA 8. WHEN ASKED

WHAT KIND OF DEFINITION OF DEFAULT CEMPEX
WOULD FIND AGREEABLE, THE OFFICIAL INDICATED
THAT PERHAPS SOMETHING LIKE THAT INCLUDED IN
EXIMBANK LOAN AGREEMENTS MIGHT BE ACCEPTABLE.

4. WITH RESPECT TO PARA 9.1(F), CEMPEX FINDS
OBJECTIONABLE THAT PART OF THE PARAGRAPH WHICH S
STATES THAT THIS LOAN IS TO BE CONSIDERED IN
DEFAULT IF SOME OTHER AGREEMENT RELATED TO THE
PROJECT IS ALSO IN DEFAULT. DURING OUR CON-
VERSATION THE CEMPEX OFFICIAL INDICATED THAT A
POSSIBLE SOLUTION TO THIS PROBLEM IS FOR OPIC
TO QUALIFY THE LANGUAGE BY INDICATING THAT IF
ANOTHER AGREEMENT FINANCING A "SUBSTANTIAL"
PORTION OF THIS PROJECT WERE IN DEFAULT THEN
THIS WOULD CONSTITUTE AN EVENT OF DEFAULT FOR
THE OPIC LOAN. IN OTHER WORDS, CEMPEX WOULD
LIKE TO HAVE THE DEFINITION NARROWED FROM THE
PRESENT ALL-EMBRACING LANGUAGE.

5. ALSO, CEMPEX WOULD LIKE TO KNOW WHETHER
THE MONEY IS TO BE DISBURSED IN ONE LUMP SUM
OR IN TRANCHES.
CRIMMINS

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Message Attributes

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Margaret P. Grafeld
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